IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

---

CIVIL SECOND APPEAL No. 221 of 2004

DWARKA PRASAD
V/S
MOHD.YAQOOB

Mr. M.A.SIDDIQUI, for the appellant / petitioner

Mr. AR NIKUB, for the respondent

Date of Order : 15.12.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

---

Heard learned counsel for the parties.

Learned lower appellate court has believed that vide Exhibit-D/1 notice, the defendant was directed to pay rent to Mishri Lal, father of the appellant and not to appellant and accordingly, the tenant has paid rent to Mishri Lal, not only this he has already vacated the premises and delivered to Mishri Lal. It has been found that Mishri Lal was not only partner of the firm rather the premises were let out with the consent of Mishri Lal and since the premises were let out by the appellant in the capacity of the partner of the firm M/s F.R. Industries, if rent has been paid to the other partner, it cannot be said that the defendant is a defaulter.

In my view the finding does not suffer from any error apart from the fact that the since premises has already been vacated, the suit for eviction no more

survives.

Learned counsel for the appellant also informed that after surrender of the possession by the defendant the appellant's father has sold the property. Thus, taking from any stand point, I do not find any substantial questions of law to be involving in this appeal. The same is, therefore, dismissed summarily.

( N P GUPTA ),J.

/rm/